

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

PREMIER ONE HOLDINGS, INC., a Nevada )  
Corporation, )

Plaintiff, )

vs. )

FEDERAL NATIONAL MORTGAGE )  
ASSOCIATION; DOES I through X; and ROE )  
BUSINESS ENTITIES I through X, )

Defendants, )

FEDERAL HOUSING FINANCE AGENCY, )  
as Conservator of the Federal National )  
Mortgage Corporation, )

Intervenor, )

FEDERAL NATIONAL MORTGAGE )  
ASSOCIATION, )

Counter-Plaintiffs, )

vs. )

PREMIER ONE HOLDINGS, INC.; and )  
SOUTHERN TERRACE HOMEOWNER'S )  
ASSOCIATION, )

Counter-Defendants. )

Case No.: 2:14-cv-2128-GMN-NJK

**ORDER**

Pending before the Court is the Motion for Summary Judgment (ECF No. 61) filed by Defendant Federal National Mortgage Association ("Fannie Mae") and Intervenor Federal Housing Finance Agency ("FHFA"). Plaintiff/Counter-Defendant Premier One Holdings, Inc.

1 (“Premier One”) filed a Response (ECF No. 63), and Fannie Mae and FHFA filed a Reply  
2 (ECF No. 64).

3 **I. BACKGROUND**

4 On July 13, 2015, the Court granted Fannie Mae and FHFA’s motion for summary  
5 judgment. (Order, ECF No. 50). Accordingly, the Court granted summary judgment in favor of  
6 Fannie Mae and FHFA as to Plaintiff Premier One’s claim for quiet title. (*Id.* 5:22–23).  
7 Additionally, on October 1, 2015, the Court granted the parties’ Stipulation, which dismissed  
8 Fannie Mae’s wrongful foreclosure and injunctive relief counterclaims. (Order, ECF No. 62).

9 As a result, the remaining claims include Fannie Mae and FHFA’s declaratory judgment  
10 and quiet title counterclaims and Plaintiff’s cancellation of instruments and injunctive relief  
11 claims. In the instant Motion for Summary Judgment, Fannie Mae and FHFA seek summary  
12 judgment on the remaining claims and counterclaims.

13 **II. LEGAL STANDARD**

14 The Federal Rules of Civil Procedure provide for summary adjudication when the  
15 pleadings, depositions, answers to interrogatories, and admissions on file, together with the  
16 affidavits, if any, show that “there is no genuine dispute as to any material fact and the movant  
17 is entitled to judgment as a matter of law.” Fed. R. Civ. P. 56(a). Material facts are those that  
18 may affect the outcome of the case. *See Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248  
19 (1986). A dispute as to a material fact is genuine if there is sufficient evidence for a reasonable  
20 jury to return a verdict for the nonmoving party. *See id.* “Summary judgment is inappropriate if  
21 reasonable jurors, drawing all inferences in favor of the nonmoving party, could return a verdict  
22 in the nonmoving party’s favor.” *Diaz v. Eagle Produce Ltd. P’ship*, 521 F.3d 1201, 1207 (9th  
23 Cir. 2008) (citing *United States v. Shumway*, 199 F.3d 1093, 1103–04 (9th Cir. 1999)). A  
24 principal purpose of summary judgment is “to isolate and dispose of factually unsupported  
25 claims.” *Celotex Corp. v. Catrett*, 477 U.S. 317, 323–24 (1986).

1 In determining summary judgment, a court applies a burden-shifting analysis. “When  
2 the party moving for summary judgment would bear the burden of proof at trial, it must come  
3 forward with evidence which would entitle it to a directed verdict if the evidence went  
4 uncontroverted at trial. In such a case, the moving party has the initial burden of establishing  
5 the absence of a genuine issue of fact on each issue material to its case.” *C.A.R. Transp.*  
6 *Brokerage Co. v. Darden Rests., Inc.*, 213 F.3d 474, 480 (9th Cir. 2000) (citations omitted). In  
7 contrast, when the nonmoving party bears the burden of proving the claim or defense, the  
8 moving party can meet its burden in two ways: (1) by presenting evidence to negate an  
9 essential element of the nonmoving party’s case; or (2) by demonstrating that the nonmoving  
10 party failed to make a showing sufficient to establish an element essential to that party’s case  
11 on which that party will bear the burden of proof at trial. *See Celotex Corp.*, 477 U.S. at 323–  
12 24. If the moving party fails to meet its initial burden, summary judgment must be denied and  
13 the court need not consider the nonmoving party’s evidence. *See Adickes v. S.H. Kress & Co.*,  
14 398 U.S. 144, 159–60 (1970).

15 If the moving party satisfies its initial burden, the burden then shifts to the opposing  
16 party to establish that a genuine issue of material fact exists. *See Matsushita Elec. Indus. Co. v.*  
17 *Zenith Radio Corp.*, 475 U.S. 574, 586 (1986). To establish the existence of a factual dispute,  
18 the opposing party need not establish a material issue of fact conclusively in its favor. It is  
19 sufficient that “the claimed factual dispute be shown to require a jury or judge to resolve the  
20 parties’ differing versions of the truth at trial.” *T.W. Elec. Serv., Inc. v. Pac. Elec. Contractors*  
21 *Ass’n*, 809 F.2d 626, 631 (9th Cir. 1987). In other words, the nonmoving party cannot avoid  
22 summary judgment by relying solely on conclusory allegations that are unsupported by factual  
23 data. *See Taylor v. List*, 880 F.2d 1040, 1045 (9th Cir. 1989). Instead, the opposition must go  
24 beyond the assertions and allegations of the pleadings and set forth specific facts by producing  
25 competent evidence that shows a genuine issue for trial. *See Celotex Corp.*, 477 U.S. at 324.

At summary judgment, a court's function is not to weigh the evidence and determine the truth but to determine whether there is a genuine issue for trial. *See Anderson*, 477 U.S. at 249. The evidence of the nonmovant is "to be believed, and all justifiable inferences are to be drawn in his favor." *Id.* at 255. But if the evidence of the nonmoving party is merely colorable or is not significantly probative, summary judgment may be granted. *See id.* at 249–50.

### III. DISCUSSION

In the Court's prior Order on Fannie Mae and FHFA's Motion for Summary Judgment, the Court held that "12 U.S.C. § 4617(j)(3) preempts Nevada Revised Statutes § 116.3116 to the extent that a homeowner association's foreclosure of its super-priority lien cannot extinguish a property interest of Fannie Mae or Freddie Mac while those entities are under FHFA's conservatorship." (Order 5:16–19, ECF No. 50). As a result, the Court further held that "the HOA's foreclosure sale of its super-priority interest on the Property did not extinguish Fannie Mae's interest in the property secured by the Deed of Trust or convey the Property free and clear to Premier One." (*Id.* 5:19–21).

Based on the holding in the Court's prior Order on Fannie Mae and FHFA's Motion for Summary Judgment, summary judgment is appropriate in favor of Fannie Mae and FHFA on the remaining claims and counterclaims in this case.<sup>1</sup>

### IV. CONCLUSION

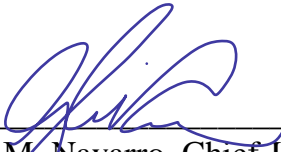
**IT IS HEREBY ORDERED** that Fannie Mae and FHFA's Motion for Summary Judgment (ECF No. 61) is **GRANTED**. Accordingly, summary judgment is entered in favor of Fannie Mae and FHFA and against Plaintiff Premier One Holdings, Inc. as to the remaining claims and counterclaims in this case.

---

<sup>1</sup> In Plaintiff's Response, Plaintiff does not argue that the Court's holding in the prior Order on Fannie Mae and FHFA's Motion for Summary Judgment does not dispose of the remaining claims and counterclaims. Rather, Plaintiff merely asserts that the Court wrongly decided Fannie Mae and FHFA's prior Motion for Summary Judgment. (Response 3:1–10, ECF No. 63).

1           **IT IS FURTHER ORDERED** that the Clerk of the Court shall enter final judgment  
2 reflecting that all claims and counterclaims have been resolved in Fannie Mae and FHFA's  
3 favor.

4           **DATED** this   6   day of April, 2016.

5  
6  
7             
8           \_\_\_\_\_  
9           Gloria M. Navarro, Chief Judge  
10           United States District Judge  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25